

### **REMARKS**

The present Amendment is in response to the Office Action dated April 1, 2005 in reference to the above-identified application. The Examiner has set a shortened statutory period for response to this action to expire three (3) months from the mailing date of the communication making this election due July 1, 2005. Filed concurrently herewith is a request for a one-month extension of time so that the present Amendment is due by August 1, 2005. Filed concurrently herewith is a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address.

In that office action claims 1-28 were pending. Of these claims 8 and 12-15 were rejected as pertaining to non-statutory subject matter under 35 U.S.C. §101. Claims 1-28 were also rejected as being indefinite under 35 U.S.C. §112, second paragraph. The Examiner also noted numerous instances of the use of the trademark "Velcro" in the specification.

More substantively, claims 1-3, 8, 9, 11, 12, 27, and 28 were rejected as anticipated under 35 U.S.C. §102(b) by U.S. Patent No. 5,325,818 to Leach and also by U.S. Patent No. 5,927,235 to Olaiz. Claims 1-15, 27, and 28 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. D300,475 to Caulder et al. in view of Olaiz. Claims 16-25 were rejected as obvious over Caulder et al. in view of Olaiz and in further view of U.S. Patent No. D374,506 to O'Neil. Finally, claim 26 was rejected as obvious over Caulder et al. in view of Olaiz in further view of U.S. Patent No. 1,574,672 to McCarroll-Doull and Engers (DE 3,532,011).

In response to the office action Applicant has amended the specification to replace all instances of the trademark "Velcro" with the generic terminology of hook and loop.

In regards to the rejections under 35 U.S.C. §101 for non-statutory subject matter and under 35 U.S.C. §112 for indefiniteness, please note that claims 1-28 have been canceled. The claims have been rewritten as newly presented claims 29-55.

Turning to the substantive rejections, Applicant believes that the prior art does not disclose all of the limitations as recited in the newly presented independent claims and the claims dependent therefrom. Thus, Applicant believes that these new claims should be in condition for allowance. For example, claim 29 recites that the harness of the invention set forth in claim 29 includes "an elongated waist piece having a bottom edge and a top edge" wherein the waist band includes "a first end portion with a first end, an opposite second end portion with a second end and a central portion therebetween". Further, and importantly, claim 29 recites that the said waist piece includes "a plurality of spaced-apart first connector elements disposed thereon proximately to the bottom edge thereof". A shoulder strap interconnects the central portion of the waist strap and one of the first and second end portions so as to extend across one of the shoulders of the person when in the mounted state. Finally, claim 29 recites that there is "an elongated strap member having an adjustable effective length so as to define opposite strap member ends, said strap member

including a fastener at each end thereof, said fastener adapted to connect to said connector elements to selectively secure the ends of said strap thereto”.

None of the prior art discloses the combination recited in new claim 1. this limitation. Specifically, the patent to Leach lacks a plurality of connectors located along the bottom edge of the waist band. Rather, Leach teaches a single connector on the top edge. Further, Leach fails to disclose an adjustable strap member having fasteners at each end of the effective length wherein such fasteners can connect to the connectors. Rather, Leach has a single connector at one end and a loop 44 at the other; loop 44 is not adapted to connect to connector 50. The patent to Olaiz simply has no connectors whatsoever on the waist band. Caulder teaches a three connectors on the waist band, but the mounting of each is on a loop extending completely across the waist band from the bottom edge to the top edge with the connector having a dimension the is substantially the same as the width of the waist band. Therefore, the connectors of Caulder are not located proximately to the bottom edge.

None of Leach, Olaiz and Caulder disclose a top edge connector in combination with the plurality of bottom edge connectors such as recited in dependent claim 35. None of the applied references show shoulder straps that cross when the waist band is mounted but are not crossed when not mounted, as recited in claim 40. Claim 41 recites belt loops on the waist piece. The German Patent to Engers does show belt loops on a mountain climbing harness and a belt. However, to combine this isolated teaching without a suggestion as to why it would be advantageous to combine such structure with a baby harness. Claim

42 recited that the fasteners of the adjustable strap can attach to each other as well as to the connectors of claim 29. This combination is not shown in the applied art.

Simply locating isolated elements in the prior art in order to reject a combination claim for obviousness without a motivation or teaching relies on hindsight reasoning that has consistently been rejected by the Court of Appeals for the Federal Circuit. As stated in *Ecolchem, Inc. v. Southern California Edison Co.*, 227 F.3d 1371, 56 USPQ2d 1065 (Fed. Cir. 2000):

Our case law makes clear that the best defense against hindsight-based obviousness analysis is the rigorous application of the requirement for a showing of a teaching or motivation to combine the prior art references.

None of the art fully and fairly disclose this combination which provides substantial versatility for the harness in different applications, as explained in the specification. Accordingly, claims 29-42 should be allowed.

Independent claim 43 recites that the waist piece has a central portion with a "central portion width" and end portions with "an end portion width", both as measured between the top and bottom edges of the waist piece. Further, claim 43 recites, "the end portion width being about one-half of the central portion width". This recitation finds enablement, for example and not limitation, in Figures 1, 2, 4, and 12. The waist piece of claim 43 has a plurality of connector elements, and an adjustable strap member is recited with a fastener at each end of the effective length that can connect to the connector elements.

Again, this combination is not found in the applied art. Some of the references of record disclose waist bands having end portions with a width that is much less than one-half the width of the central portion (for example, Dietz, Caulder et al and Jimenez). Other art teaches end portions with a width that is almost the same as the central portion (for example, Ostrander et al). The feature recited in claim 43 allows easy fastening of the waist piece at the back of the wearer while maintaining substantial comfort on the chest when worn. Dependent claims 44-46 further define the location of the connectors of claim 43 in a manner not appreciated in the art of record. Claim 47 adds the second connector not found in the art in the recited combination. Claim 49 adds the belt loops not appreciated, suggested or motivated by the child harnesses of the applied art, for the reasons discussed above.

New independent claim 50 recites that the waist band includes "a plurality of spaced-apart belt loops disposed thereon" and that the waist band includes "a plurality of connector elements disposed thereon". Claim 50 further recites that there is "an elongated strap member having an adjustable effective length so as to define opposite strap member ends, said strap member sized and configured to removeably engage said belt loops and including a fastener at each end thereof, said fasteners adapted to connect to each other and independently to said connector elements to selectively secure the ends of said strap thereto". This combination is not fully and fairly disclosed in the art for the reasons set forth above. Claims 51-52 again recite locations of the first connector elements and claim 53 adds the second connector element, and claim 54 adds that there is

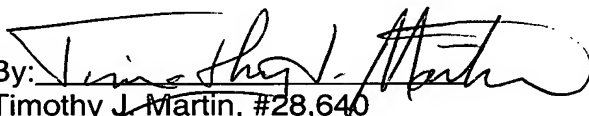
a first connector element associated with each of the belt loops. The references do not teach the combinations recited in these dependent claims.

As presented by this amendment, there are three independent claims and a total of 28 claims. No additional claims fees are believed to be payable upon the Amendment because there were the same number of independent claim and total claims originally presented. However, the Commissioner is hereby authorized to charge any deficiency in the required fees, or to credit any overpayment, to deposit account number 13-1940.

Based on the foregoing, Applicant submits that the present application is in complete condition for allowance, and action to that end is courteously solicited. If any issues remain to be resolved prior to the granting of this application, the Examiner is requested to contact the undersigned attorney for the Applicant at the telephone number listed below.

Respectfully submitted,

***TIMOTHY J. MARTIN, P.C.***

By:   
Timothy J. Martin, #28,640  
Michael R. Henson, #39,222  
Rebecca A. Gegick, #51,724  
9250 West 5<sup>th</sup> Avenue, Suite 200  
Lakewood, Colorado 80226  
(303) 232-3388



**CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8**

I hereby certify that the foregoing **AMENDMENT (19 pages)**, and **REQUEST FOR A ONE-MONTH EXTENSION OF TIME (2 pages) and CHECK NO. 5130 IN THE AMOUNT OF \$60.00** is being deposited with the United States Postal Service as first-class mail in an envelope addressed to Mail Stop Non Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 29<sup>th</sup> day of July, 2005.

  
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Marcie F. King